

REMARKS

Claims 1, 3 and 19-21 have been amended. Claims 1, 3, 5, 7-12 and 14-22 remain pending in the present application. Applicant reserves the right to pursue the original and other claims in this and other applications.

Claims 1, 3, 5, 7-12 and 14-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bolavage (U.S. Publication No. 2002/0084889) in view of Branscomb (U.S. Patent No. 7,240,364). The rejection is respectfully traversed.

At the outset, Applicant submits that the claimed invention determines more than just the physical location of the physical asset. The claimed invention also determines “whether the physical asset is in its proper location” at any given time. Applicant has amended the claims to clarify this key feature and expedite the prosecution of this application.

Turning to the merits of the pending rejection, as argued previously, Bolavage, the primary reference, refers generally to an unrelated method and apparatus for communicating with RF tags using multiple frequencies. In particular, Bolavage refers to a method that can communicate with tags from various manufacturers. Bolavage is not designed to, or even relevant to, a system designed to track the location of physical assets and determine whether the physical assets are in their proper location. Given this, it is unreasonable to believe that one of ordinary skill in the art at the time of invention would have looked to the Bolavage system to achieve a tracking device system consisting of “[a] physical asset, . . . [a] communication means, . . . and [a] receiving means” where “the physical asset, the communication means and the receiving means are different devices, in continuous communication and *track whether the physical asset is in its proper location*,” for example, as recited in claim 1. (Emphasis added). Claims 3 and 19-21 recite similar limitations.

As argued before, even if one of ordinary skill were to look to Bolavage for an asset tracking system, Bolavage fails to teach or suggest almost all of the limitations of the claimed invention. Bolavage has at least four specific deficiencies. Bolavage does not teach or suggest:

1) a second signal carrying a location, 2) a second signal being received by a receiving means which is a different device than the transmitter, 3) the act of tracking whether the physical asset is in its proper location, and 4) the “status” display system recited in the claims.

To overcome these deficiencies, the Office Action attempts to supplement Bolavage with Branscomb. Branscomb, however, also does not teach or suggest the above-noted missing limitations. For example, even if it is assumed that Branscomb taught or suggested the “display” system of the claimed invention as suggested by the Office Action – which Applicant does not concede – several deficiencies still remain. That is, Branscomb fails to teach or suggest at least 1) a second signal carrying a location, 2) a second signal being received by a receiving means which is a different device than the transmitter, and 3) tracking whether the physical asset is in its proper location.

Moreover, the Supreme Court said in *KSR Int'l Co. v. Teleflex Inc.* that “the [Graham] factors continue to define the inquiry that controls” a finding of obviousness and reiterated that a “patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art” (127 S. Ct. 1727, 1734 (2007)), which is exactly the case here. The Office, via its recent Office Actions, is continuously mixing and matching the same group of references using impermissible hindsight and the pending claims as a road map to continuously and improperly combine references. *See Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. App. 1985); M.P.E.P. §2144. The continued reliance of improper combinations has become extremely costly and prejudicial to the Applicant.

Thus, the Bolavage and Branscomb combination is defective and fails to teach or suggest all limitations of claims 1, 3 and 19-21. Moreover, as argued previously, Bolavage and Branscomb fail to provide a motivation to combine the cited references to achieve the claimed invention. Therefore, Applicant respectfully submits that the Bolavage and Branscomb combination fail to render obvious claims 1, 3 and 19-21. Claim 5 depends from claim 3 and is allowable along with claim 3. Claims 10-12, 17 and 18 depend from claim 1 and are allowable along with claim 1.

Claim 22 depends from claim 21 and is allowable along with claim 21. Accordingly, the rejection should be withdrawn and the claims allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

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